

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re the matter of Serial No. 77/576,701 and Reg No. 3,598,442
Mark: JOBFORCE

MICHIGAN JOB TRAINING PARTNERSHIP
ASSOCIATION,

Petitioner,

v.

DAVID E. HOFFMAN JR.,

Registrant.

Cancellation No. 92054155

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**ANSWER AND AFFIRMATIVE DEFENSES
TO PETITION FOR CANCELLATION**

In the matter of United States trademark Registration No. 3,598,442, dated March 31, 2009, David E. Hoffman Jr. ("Registrant") states:

FIRST DEFENSE

ALLEGATION NO. 1: Petitioner provides leadership training and support services to promote quality and excellence for the advancement of the workforce development system and its customers and professionals ("Petitioner's Services").

ANSWER: Registrant is without sufficient knowledge or information to form a belief as to the truth of the allegations of this Paragraph 1 of the Petition for Cancellation and, therefore, denies same.

ALLEGATION NO. 2: Since at least as early as 1999, Petitioner has continually used the trademarks JOBFORCE, THE JOB FORCE BOARD, and MICHIGAN WORKS! THE JOB



09-02-2011

FORCE BOARD ("JOBFORCE Marks") in interstate commerce in connection with Petitioner's Services.

See **Exhibit A** evidencing such continual use from 1999 through 2011, including archived use on the Internet Archive Wayback Machine website <http://web.archive.org> showing continual use of the JOBFORCE Marks by Petitioner for every year from 1999 through 2010. This use clearly predates the September 23, 2008 filing date relied on by Mr. Hoffman, and the September 1, 2008 first-use date of JOBFORCE submitted by Mr. Hoffman with respect to the Registration.

ANSWER: Registrant denies that Petitioner has any ownership, equitable rights, standing or permission to use Registrant's JOBFORCE mark. As to all other allegations, Registrant is without sufficient knowledge or information to form a belief as to the truth of the allegations of this Paragraph 2 of the Petition for Cancellation and, therefore, denies same.

ALLEGATION NO. 3: For over 12 years Petitioner has provided services under its JOBFORCE Marks and Petitioner has advertised and promoted its JOBFORCE Marks throughout the United States, which has included advertising on social media websites, such as Facebook.

ANSWER: Registrant denies the allegations of Paragraph 3 of the Petition for Cancellation.

ALLEGATION NO. 4: By virtue of Petitioner's services, advertising and promotion of Services, its JOBFORCE Marks have become well known in connection with Petitioner and Petitioner's Services and Petitioner now owns valuable goodwill in its JOBFORCE Marks.

ANSWER: Registrant denies the allegation contained in Paragraph 4 of the Petition for Cancellation.

ALLEGATION NO. 5: On September 23, 2008, Mr. Hoffman filed an application to register the mark JOBFORCE for the following services, Application Serial No. 77/576,701:

International Class 035: Consulting services in the field of human resources development, namely, for the promotion of employee retention, career growth, and increased productivity for employees and employers; Consulting services in the field of human resources development, namely, utilizing technology for the promotion of employee retention, career growth and increased productivity for employees and employers; Consulting services, namely to employers, community organizations, brokers and beneficiaries, related to consumer information regarding health care plan options, products and programs in the field of managed care and state and federal medical care programs; Dissemination of advertising, scheduling and managing of training courses and programs for others via a global computer network; Employment agencies; Employment agency services, namely, temporary placement of child care providers; Employment counseling and recruiting; Employment hiring, recruiting, placement, staffing and career networking services; Employment outplacement services; Employment recruiting consultation; Employment services in the nature of talent casting in the fields of music, video, and films; Employment staffing in the field of Summer Youth Employment; Employment verification; Job and personnel placement; Job placement; Management and business consulting services in the field of training and recruitment; Organizing and conducting job fairs; Personnel recruitment services and employment agencies; Promoting the interests of people involved and concerned with youth sports; Providing an online searchable database featuring classified ad listings and employment opportunities; Providing an online searchable database featuring employment opportunities and content relevant to people 50 years of age and older; Providing information on the topic of determining job satisfaction; Temporary employment agencies; Testing to determine employment skills; Testing to determine job competency ("Mr Hoffman's Services").

ANSWER: Registrant partially admits the allegation in paragraph 5 in that Registrant is the creator, senior user, and early adopter of the distinctive mark JOBFORCE and has applied for, and obtained registration of it's mark as noted in the official records of the United States Patent and Trademark Office and other official public records that Registrant may produce. Registrant is without sufficient knowledge or information to form a belief as to the truth of the allegations of this Paragraph 5 of the Petition for Cancellation and, therefore, denies any other allegations of same in Paragraph 12 of the Petition for Cancellation.

ALLEGATION NO. 6: On information and belief, Mr. Hoffman made no use of the mark JOBFORCE before September 1, 2008, the first-use date claimed in the Registration.

ANSWER: Registrant denies the allegations of this Paragraph 6 of the Petition for Cancellation.

ALLEGATION NO. 7: There is no issue as to priority. Petitioner used its JOBFORCE Marks long prior to the date of first use of the mark JOBFORCE by Mr. Hoffman.

ANSWER: Registrant denies the allegations of this Paragraph 7 of the Petition for Cancellation.

ALLEGATION NO. 8: Hoffman's use and the Registration of the mark JOBFORCE is without Petitioner's consent or permission.

ANSWER: Registrant denies the allegations of this Paragraph 8 of the Petition for Cancellation. Petitioner has no equitable interest in Registrant's JOBFORCE mark in USPTO registration No. 3,598,442 and is therefore not entitled to the privileges granted under law to exclusive use.

ALLEGATION NO. 9: Mr. Hoffman's use of the mark JOBFORCE for Mr. Hoffman's Services is likely to cause confusion, mistake or deception with Petitioner and Petitioner's JOBFORCE Marks, and is likely to cause potential customers and others to believe erroneously that Mr. Hoffman's services, or that Mr. Hoffman or are connected with, sponsored by or approved by Petitioner.

ANSWER: Registrant denies the allegations of this Paragraph 9 of the Petition for Cancellation.

ALLEGATION NO. 10: Mr. Hoffman admits that these parties' marks are confusingly similar since he has asserted that Petitioner's use of its JOBFORCE Marks in connection with its services infringes Mr. Hoffman's rights in the mark JOBFORCE of the Registration.

ANSWER: Registrant partially admits the allegations of Paragraph 10 only in that Registrant believes it has exclusive rights in ownership of the JOBFORCE mark registration No. 3,598,442 until proven otherwise and that Petitioner's use of Registrant's mark is infringing Registrant's rights, and further that Registrant has asserted his rights in the course of monitoring unauthorized usage of Registrant's JOBFORCE mark. Registrant does not have information or sufficient knowledge as to the truth of Petitioner's other allegations and therefore denies all other allegations of this Paragraph 10.

ALLEGATION NO. 11: Mr. Hoffman has contacted the Facebook website, charging Petitioner with infringement of Mr. Hoffman's rights in his registered mark and sought to have Petitioner's content removed from the Facebook website based on such content using the JOBFORCE Marks, causing loss of customers and users of Petitioner's Services.

ANSWER: Registrant partially admits the allegations of paragraph 11 summarily in that Petitioner's use of Registrant's JOBFORCE mark is without Registrant's consent, and unauthorized and has notified administrators of the website Facebook.com of same. Registrant admits that all rights obtained as a result of the JOBFORCE registration have, and are being asserted and further that Registrant has taken actions to enforce its rights with respect to unauthorized use of Registrant's JOBFORCE mark. Registrant does not have sufficient knowledge or information as to whether Petitioner's unauthorized use, and Registrant's resulting enforcement actions have caused a loss of customers and users of Petitioner's services, and

thereby denies all remaining allegations in Paragraph 11 of the Petition for Cancellation.

ALLEGATION NO. 12: Petitioner's content using its JOBFORCE Marks has been wrongfully removed from the Facebook website in response to Mr. Hoffman's assertion that such use infringes his rights in the mark JOBFORCE of the Registration.

ANSWER: Registrant partially agrees with the allegations in Paragraph 12 only in that Registrant is asserting all rights afforded by it's JOBFORCE registration and such assertion includes but is not limited to enforcement for the unauthorized use by third parties as well as unfair or deceptive trade practices by same third parties. Registrant maintains the rights to take any lawful steps to have infringing, unauthorized and unfair practices using it's registered JOBFORCE mark stopped. Registrant does not have sufficient information or knowledge as to the truth of other statements contained in Petitioners allegation and therefore denies all other allegations this Paragraph 12 of the Petition for Cancellation.

ALLEGATION NO. 13: Accordingly, the Registration of the mark JOBFORCE by Mr. Hoffman is damaging to Petitioner.

ANSWER: Registrant is without sufficient knowledge or information to form a belief as to the truth of the allegations that Registrant's mark is damaging to Petitioner as stated in Paragraph 13 of the Petition for Cancellation and, therefore, denies same.

SECOND DEFENSE

Petitioner has failed to state a claim for which relief may be granted.

THIRD DEFENSE

Petitioner is not a real party in interest and for that reason, as well as others, lacks standing to seek cancellation of Registrant's registration.

FOURTH DEFENSE

Petitioner, or representatives of Petitioner have long known of Registrant's claim of ownership of the JOBFORCE mark in the United States and have long known of registration No. 3,598,442. Petitioner failed to oppose Registrant's claim of ownership during normal 'due process of law'.

FIFTH DEFENSE

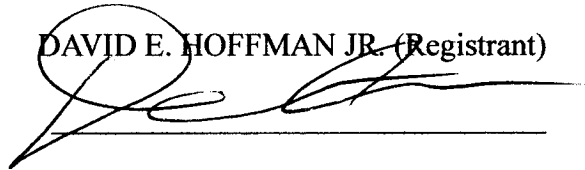
Petitioner does not possess a valid standing on which to challenge Registrant's continued presence on the Federal Register of Registrant JOBFORCE mark registration No. 3,598,442.

SIXTH DEFENSE

Petitioner has not proven that there is a valid grounds why Registrant is not entitled under law to maintain it's registration for it's mark JOBFORCE registration No. 3,598,442.

WHEREFORE, Registrant requests this Honorable Board to deny the Petition's request for cancellation and dismiss this cancellation proceeding.

DAVID E. HOFFMAN JR. (Registrant)

A handwritten signature in black ink, appearing to read "David E. Hoffman Jr.", is written over a horizontal line. The signature is stylized and cursive.

Pro Se

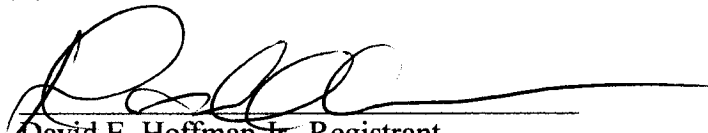
Dated: September 1, 2011

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Answer and Affirmative Defenses to Petition for Cancellation was served on the attorney for Petitioner by first class mail, postage prepaid, addressed to the following:

Leon E. Redman, Esq.
c/o Brooks Kushman P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238
United States of America

this 1st day of September 2011.



David E. Hoffman Jr., Registrant
Pro Se